

CITY OF ALAMEDA

Memorandum

To: Honorable Mayor and
Members of the City Council

From: John A. Russo
City Manager

Date: July 19, 2011

Re: Authorize the City Manager to Execute an Amendment to the City of Alameda Ambulance and Paramedic Provider Agreement with Alameda County, and Receive an Update on Related Legislation

BACKGROUND

The Ambulance and Paramedic Provider Agreement between the City of Alameda and Alameda County expired on June 30, 2011. Council approved this one-year agreement earlier this year and the amount of compensation of that agreement. The County has proposed extending that agreement while a new agreement is being negotiated. Execution of the extension is necessary in order for the Fire Department to continue providing basic life support, advanced life support and ambulance transport services to the community while negotiations for a replacement agreement continue.

DISCUSSION

Amendment

The amendment allows the Fire Department to continue providing emergency medical services under the terms of the agreement that expired on June 30, 2011. The amendment expires October 31, 2011. The Department is working closely with the Alameda County Emergency Medical Services Agency to ensure a new agreement is in place by October 31, 2011 and necessary elements are included.

New Agreement

The proposed new agreement and a bill being considered by the California Legislature present several challenges that must be addressed if the City is to protect its exclusive right to administer basic life support, advanced life support, and ambulance transport services. Additionally, the City must maintain the broad anti-trust immunity granted through the California Health and Safety Code.

The enactment of the Emergency Medical Services (EMS) Act in 1980 included important language under the California Health and Safety Code (CHSC) Section

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1797.201. This section of the CHSC granted fire agencies that provided or contracted for EMS services on or before June 1, 1980, the right to continue those services in perpetuity until such time as they voluntarily entered into an agreement with the Local Emergency Medical Services Agency (LEMSA).

The original Ambulance and Paramedic Provider Agreement between the City and County executed on December 14, 1999, contained important language regarding the retention of the City's Section 1797.201 rights. This language protected the City's exclusive right to continue to provide basic life support, advanced life support, and ambulance transport services without a competitive bid process. It also provided the City with state action immunity under federal anti-trust laws as described in CHSC Section 1797.6. This language was continued in the subsequent agreement that expired on October 31, 2005. When this agreement expired, no replacement was executed until January 2011, for the fiscal year that commenced July 1, 2010. The current agreement contains language that was significantly altered from the previous versions and could present a challenge to the City for exclusive rights to deliver basic life support, advanced life support, and ambulance transport services as discussed. The 1999 and 2010 agreement contrasting terms are as follows:

1999 Agreement

Recitals of Authority

Whereas, CITY having provided or contracted for emergency medical services within its boundaries in the same scope and manner and without interruption since January 1, 1981, in accordance with section 1791.201 of the California Health and Safety Code;

Section 2.4.

At the CITY's request, the COUNTY shall establish an EOA for the CITY to exclusively perform non-emergency ambulance transport within the incorporated limits of the City of Alameda after the CITY has provided and can demonstrate that the CITY's allowable expenses, as described in Exhibit E exceed their revenue. Should the CITY decide to contract this service out, COUNTY must approve the subcontractor.

2010 Agreement

Recitals of Authority

Whereas, CITY represents having provided or contracted for emergency medical services within its boundaries in the same scope and manner and without interruption since January 1, 1981, in accordance with section 1797.224 of the California Health and Safety Code;

The 2010 agreement does not contain the Section 2.4 language included in the 1999 agreement.

The new agreement between the City and County must include language that specifically recognizes that the statutory rights conferred in the original 1999 agreement

through Section 1797.201 are continued. Additionally, it must acknowledge that the County has granted the City an exclusive operating area (EOA) that establishes the City's right to provide or contract for the levels and types of pre-hospital emergency medical services now being furnished by the City. The Fire Department is working closely with the County to ensure these terms are included in the new agreement.

Assembly Bill 210

The State Assembly passed Assembly Bill 210 (Solorio) on June 3, 2011. The bill, which is currently pending before the Senate Appropriations Committee, may have a significant impact on the City's ability to maintain its Section 1797.201 rights. In its current form, AB 210 would eliminate CHSC Section 1797.201 and replace it with language under proposed Section 1797.225, which does not provide clear language that Section 1797.201 rights are included. This could allow the County to dictate the level of pre-hospital EMS service, forcing the City to allow third-party providers into the City's pre-hospital care system or allow the County to dictate the level of service provided in Alameda.

Other interests at the State Office of Emergency Medical Services may also impact the City's future local rights. There have been discussions among members of the task force developing regulations for the CHSC that would propose a ban on all CHSC 1797.201 rights for fire service agencies absent protective legislation. The Alameda Fire Department, in conjunction with other fire agencies throughout the state, has proposed amendments to Assembly Bill 210 that would serve to protect these rights. Some of the major aspects of these amendments would:

- Mandate that cities with 1797.201 rights maintain protection as Exclusive Operating Areas (EOA)
- Ensure that prospectively-signed agreements with the local EMS agencies (LEMSAs) do not nullify existing rights as an EOA
- State that previously signed agreements with the LEMSAs do not eliminate a city's 1797.201 rights unless specifically stated in that agreement
- Recognize that a 1797.201 city that contracted for or provided EMS as of June 1, 1980, has broad anti-trust immunity

The progress of AB 210 is being monitored closely, and an amended version would provide the best protection for the existing EMS services in Alameda. The agreement, which will be negotiated with the County in the coming months, will also prove crucial to maintenance of these service levels.

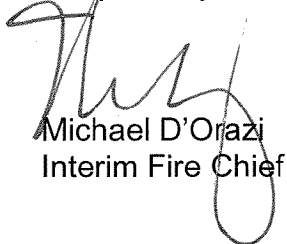
FINANCIAL IMPACT

The cost to continue the agreement while the successor agreement is negotiated is \$289,943. This funding is budgeted in the Fire Department's operating budget in the Ambulance Transport program's contractual services account (001 3230 61060).

RECOMMENDATION


Authorize the City Manager to execute an amendment to the City of Alameda Ambulance and Paramedic Provider Agreement with Alameda County, and receive an update on related legislation.

Respectfully submitted,



Michael D'Orazi
Interim Fire Chief

Approved as to funds and account,



Fred Marsh
Controller

Exhibits:

1. City of Alameda Ambulance and Paramedic Provider Agreement, July 1, 2010 through June 30, 2011
2. Amendment to Ambulance Provider Agreement

AMENDMENT TO AMBULANCE PROVIDER AGREEMENT

Reference is made to that contract made and initially entered into on the 1st day of July, 2010, by and between the **COUNTY OF ALAMEDA**, a body corporate and politic of the State of California, and the **City of Alameda**.

Said contract is hereby amended:

1. The contract duration shall be extended beyond the current expiration date of June 30, 2011. The term of this Agreement shall be for the period July 1, 2010 through October 31, 2011.
2. The terms and conditions of the attached loan agreement are made part of the agreement.
3. All other terms and conditions specified in the current agreement, including compensation shall remain in full force during this extension period.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment this 11th of July, 2011.

COUNTY OF ALAMEDA

CITY

By: _____
President, Board of Supervisors

By: _____
John A. Russo
City Manager
City of Alameda, California
Tax ID #: 94-6000288

Approved as to Form:

Richard R. Karlsson, Interim County Counsel

By: _____
Deputy County Counsel

**City Council
Exhibit 2 to
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EQUIPMENT LOAN AGREEMENT

A. INTRODUCTION:

Paramedics Plus has contracted with County to loan the following equipment to Contractor for use on FRALS units at no cost to Contractor:

1. **Three (3) Rugged mobile personal computers and software** for the PCR system:
 - a. Panasonic CF-19 Toughbook
 - b. One (1) spare battery
 - c. One (1) AC charging cable
 - d. IT support and updates when required
 - e. Routine scheduled maintenance.
2. **Seven (7) LIFEPAK 15 System**
 - a. LP 15 monitor-defibrillators capable of wireless transmission of 12-lead ECG's for each unit and sufficient data plan to accommodate and support this process.
 - b. Temporary replacement Lifepak 15s for units undergoing repairs
 - c. Velocitor charger
 - d. Station charger
 - e. One (1) spare battery
3. **Four (4) Physio-Control chest compression system (LUCAS device)**
 - a. Lucas CPR device
 - b. One (1) spare battery
 - c. One (1) station charger

B. CONDITIONS:

1. Acceptance of Paramedics Plus equipment is optional. By accepting equipment under this agreement, Contractor commits to utilizing equipment in the delivery of all ALS First Response services. If Contractor is not utilizing the equipment for the delivery of care (e.g.: closure of a station, reduction of FRALS units) all equipment must be immediately returned to Paramedics Plus.
2. Paramedics Plus shall maintain ownership of the equipment at all times. The terms of this exhibit and the responsibilities outlined herein are not transferable. By accepting Paramedics Plus equipment, the Contractor agrees to comply with all terms and conditions set forth herein associated with the loan of equipment.
3. The Contractor shall be solely responsible for the proper use and deployment of the equipment. Paramedics Plus shall be responsible for training personnel using the equipment on the proper use of the equipment in accordance with any equipment use procedures. The Contractor accepts sole responsibility for operating the equipment at its sole risk.
4. Contractor agrees to give this equipment the same level of care as similar property purchased by Contractor. Equipment shall be returned to Paramedics Plus in as good a condition as when received by the Contractor, reasonable wear and tear excepted. During the loan period Paramedics Plus agrees to assume all responsibility for maintenance and repair due to normal wear and tear.

5. The Contractor is responsible for the full cost of repair or replacement of any or all of the equipment that is damaged by intentional misuse, abuse, or neglect, lost, or stolen from the time Contractor assumes custody. If the equipment is lost, stolen or damaged, Contractor must immediately notify the Paramedics Plus representative.
6. Paramedics Plus shall pay for all insurance, regularly scheduled maintenance and maintenance agreements for the equipment.
7. All maintenance and repair of equipment shall be performed by personnel authorized by Paramedics Plus. Any unauthorized maintenance voids all original equipment warranties. The Contractor shall be liable for the cost of purchasing a new warranty for the equipment if unauthorized maintenance is performed on the equipment by Contractor's personnel.
8. Contractor shall make the equipment available for inspection and maintenance during regular business hours with adequate advance notice and notify Paramedics Plus in writing of any necessary repairs or if the equipment malfunctions. Inventory management and return notification.
9. Contractor shall maintain and provide annual inventory reports to Paramedics Plus when requested. These reports shall include the Paramedics Plus inventory control number and well as the Contractor unit where the equipment is assigned.
10. Failure to adhere to the conditions described above may result in withdrawal of use and possession of the equipment, through written notice by Paramedics Plus and endorsed by County.
11. Contractor shall return the equipment to Paramedics Plus upon termination of 9-1-1 Ambulance Agreement between Paramedics Plus and County. The current agreement is for the period beginning November 1, 2011, and ending October 31, 2016. County has an option to renew for five additional years, ending October 31, 2021.
12. In consideration for the equipment loan, the Contractor agrees to indemnify, defend and hold Paramedics Plus and County harmless from any and all damages, losses, claims, causes of actions, expenses and liability of any nature whatsoever associated with its use of the equipment.

Name:

John A. Russo

Signature: _____

Title: City Manager

Date: 07/11/2011